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PART 389—FEES AND CHARGES FOR SPECIAL SERVICES

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SOURCE: OR-27, 33 FR 70, Jan. 4, 1968, unless otherwise noted.

Subpart A—General Provisions

§ 389.1 Policy and scope.

Pursuant to the provisions of Title V of the Independent Offices Appropriation Act of 1952 (5 U.S.C. 140) as implemented by Bureau of Budget Circular A-25, dated September 23, 1959, the Board sets forth in this regulation the special services made available by the

Board and prescribes the fees to be paid for these and various other services.

Subpart B—Fees for Special Services

§ 389.10 Applicability of subpart.

This subpart describes certain special services made available by the Board and prescribes the fees and charges for these services.

§ 389.11 Services available.

Upon request and payment of fees as provided in subsequent sections, there are available, with respect to documents subject to inspection, services as follows:

- (a) Locating and copying records and documents.
- (b) Certification of copies of documents under seal of the Board.
- (c) Subscriptions to publications of the Board.
- (d) Transcripts of hearings.

[OR-27, 33 FR 70, Jan. 4, 1968, as amended by OR-94, 40 FR 7242, Feb. 19, 1975]

§ 389.12 Payment of fees and charges.

The fees charged for special services may be paid by check, draft, or postal money order, payable to the Civil Aeronautics Board, except for charges for reporting services which are performed under competitive bid contracts with non-Government firms. Fees for reporting are payable to the firms providing the services.

§ 389.13 Fees for services.

Except for photocopy work, the basic fees set forth below provide for documents to be mailed with ordinary first class postage prepaid. If copy is to be transmitted by registered, certified, air, or special delivery mail, postal fees therefor will be added to the basic fee. Also, if special handling or packaging is required, costs therefor will be added to the basic fee. For photocopy work, postage will be in addition to the fee for copying.

§ 389.14 Locating and copying records and documents.

Public records and documents on file with the Civil Aeronautics Board will

be located and copied upon request and payment of fees as set forth below:

(a) There shall be no charge in connection with searches for records or documents under this chapter.

(b) Photocopies of records or documents shall be made using the Board's facilities or by contractors.

(1) The fee for photocopying will be 15 cents per page.

(2) The fee for copying by contractors will be that established in the contracts with the Board and will be billed directly by those contractors.

(c) Copies of board data on magnetic tapes, or extractions of data from Board data tapes, will be made by the National Archives and Records Service (NARS) of the General Services Administration or by computer service bureaus.

(1) The Director, Bureau of Accounts and Statistics, furnishes many public records and documents contained on magnetic tape to NARS. Initial requests for data should be made directly to the Machine Readable Archives Division, National Archives and Records Services, General Services Administration, Washington, D.C. 20408, with the applicant directly reimbursing NARS for its copying or data extraction charges. When NARS does not have the requested data, the Director, Bureau of Accounts and Statistics, upon written request, will furnish the tapes for a reasonable length of time to a computer service bureau chosen by the applicant subject to the Director's approval. The computer service bureau shall assume the liability for the cost of replacing any tape that may be damaged or destroyed by it.

(2) The fee for data copying by NARS will be determined by NARS.

(3) The fee for data copying by a computer service bureau shall be established by agreement between the requesting party and the computer service bureau.

(d) Where the Board's fee for service requested will exceed \$100, the service will not be performed until payment has been received. In such cases, the requester will be notified promptly of the amount of the fee, and the requested service will be performed as expeditiously as practicable following receipt of payment.

(e) Applications for waivers or modifications of any fees required to be paid to the Board under this section may be filed in accordance with the following:

(1) Each applicant shall set forth briefly and succinctly the relief that it seeks and the reasons why such relief should be granted. Waivers or modifications of stated fees shall be granted only where it is demonstrated that such action is in the public interest because furnishing of the information requested can be considered as primarily benefiting the general public.

(2) Applications requesting waivers or modifications of fees under this section shall be addressed to the Managing Director, who has been delegated authority by the Board to decide such applications in §385.12 of this chapter, and shall accompany the request for service under this section.

(3) The Managing Director shall either rule on the application or, at his discretion, pass the matter on to the Board for its determination. In acting upon such applications the Managing Director and the Board, where applicable, shall be guided by the procedures and requirements of §310.9(d) of this chapter.

(4) A decision by either the Managing Director or the Board pursuant to paragraph (d)(3) of this section is final and will not be subject to petitions for reconsideration.

[OR-94, 40 FR 7242, Feb. 19, 1975, as amended by OR-131, 43 FR 38574, Aug. 29, 1978]

§ 389.15 Certification of copies of documents.

The Secretary of the Board will provide, on request, certifications or validation (with the Civil Aeronautics Board seal) of documents filed with or issued by the Board. Copies of tariffs filed with the Board will be certified only when such copies have been made under the Board's supervision upon request of the applicant. Charges for this service are as follows:

(a) Certification of the Secretary, \$2. This fee includes clerical services involved in checking the authenticity of records to be certified. If copying of the documents to be certified is required, the copying charges provided for in §389.14 will be in addition to the charges specified in this section.

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(b) [Reserved]

[OR-27, 33 FR 70, Jan. 4, 1968, as amended by OR-35, 34 FR 5598, Mar. 25, 1969]

§ 389.16 Board publications.

(a) *Charges for publications.* Charges have been established by the Superintendent of Documents for subscriptions to certain Board publications. A list of these publications together with information on how they can be ordered is contained in the "List of Publications", which is available on request from the Board's Publications Services Division, B-22, Washington, D.C., 20428.

(b) *Free services.* No charge will be made by the Board for notices, decisions, orders, etc., required by law to be served on a party to any proceeding or matter before the Board. No charge will be made for single copies of Board publications individually requested in person or by mail, except where a charge is specifically fixed for a publication at the time of its issuance.

(c) *Reciprocal services.* Arrangements may be made with the Board's Bureau of International Aviation for furnishing publications to a foreign country or to an international organization on a reciprocal basis.

[OR-178, 46 FR 8445, Jan. 27, 1981]

§ 389.17 Transcripts of proceedings.

Transcripts of testimony and oral argument are furnished to the Board by a non-Government contractor for any proceeding in which the presiding officer has determined that such transcript should be made, and copies thereof may be purchased directly from the reporting firm, at prices and upon other terms and conditions specified in the contract made between the Board and the reporting firm, and currently in effect, pursuant to section 11 of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770, 5 U.S.C. App. I). Any person may obtain from the Director, Office of Facilities and Operations, the name and address of the reporting firm with which the Board currently has such contract, as well as the contract prices then in effect for the various types of transcript and copying services covered by such contract.

[OR-84, 39 FR 22417, June 24, 1974]

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Subpart C—Filing and Processing License Fees

§ 389.20 Applicability of subpart.

(a) This subpart applies to the filing of certain documents and records of the Department by non-government parties, and prescribes fees for their processing.

(b) For the purpose of this subpart, record means those electronic tariff records submitted to the Department under subpart W of 14 CFR part 221, and contains that set of information which describes one (1) tariff fare, or that set of information which describes one (1) related element associated with such tariff fare.

[Amdt. 389-37, 54 FR 2099, Jan. 19, 1989]

§ 389.21 Payment of fees.

(a) Any document or record for which a filing fee is required by § 389.25 shall be accompanied by either (1) a check, draft, or postal money order, payable to the Civil Aeronautics Board, in the amount prescribed herein, or (2) a request for waiver or modification of the filing fee.

(b) [Reserved]

(c) Where a document seeks authority or relief in the alternative and therefore would otherwise be subject to more than one filing fee, only the highest fee shall be required.

(d) Where a document relating to a single transaction or matter seeks multiple authorities or relief and therefore would otherwise be subject to more than one filing fee, only the highest fee shall be required. Where a document relating to more than one transaction or matter seeks multiple authorities or relief, the required filing fee shall be determined by combining the highest fees for each transaction or matter. For purposes of this paragraph, a specific number of charters or inclusive tours described in one application will be regarded as a single transaction or matter.

(e) No fee shall be returned after the document has been filed with the

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Board, except as provided in §§ 389.23 and 389.27.

[OR-27, 33 FR 70, Jan. 4, 1968, as amended by OR-27A, 33 FR 3633, Mar. 1, 1968; OR-50, 35 FR 15986, Oct. 10, 1970; 48 FR 642, Jan. 6, 1983; Amdt. 389-37, 54 FR 2099, Jan. 19, 1989]

§ 389.22 Failure to make proper payment.

(a)(1) Except as provided in § 389.23, documents (except tariff publications) which are not accompanied by filing fees shall be returned to the filing party, and such documents shall not be considered as filed by the Board.

(2) Except as provided in § 389.23, records which are not accompanied by the appropriate filing fees shall be retained and considered filed with the Department. The Department will notify the filer concerning the non-payment or underpayment of the filing fees, and will also notify the filer that the records will not be processed until the fees are paid.

(b) The filing fee tendered by a filing party shall be accepted by the Board office to whom payment is made, subject to post audit by the Chief of the Board's Finance Division and notification to the filing party within 30 days of any additional amount due. Not more than 5 days after receipt of the notification, the determination of the Chief, Finance Division, may be appealed to the Managing Director of the Board, who has been delegated authority by the Board to decide such appeals in § 385.12 of this chapter. The filing party may submit to the Board a petition for review of the Managing Director's decision pursuant to § 385.50 of this chapter, and proceedings thereon will be governed by part 385, subpart C, of this chapter.

(c) The amount found due by the Chief, Finance Division, shall be paid within 10 days of notification except that (1) if that decision is appealed to the Managing Director, the amount due shall be paid within 10 days after the Managing Director notifies the filing party that he has affirmed or modified the decision of the Chief, Finance Division; and (2) if the decision of the Managing Director is appealed to the Board, the amount due shall be paid within 10 days after the Board notifies the filing party that it has affirmed or

modified the staff decision. If the amount due is not paid, the document (except a tariff publication) shall be returned to the filing party along with the fee tendered, and such document shall be deemed to have been dismissed or withdrawn.

[OR-27, 33 FR 70, Jan. 4, 1968, as amended by OR-96, 40 FR 20613, May 12, 1975; Amdt. 389-37, 54 FR 2099, Jan. 19, 1989]

§ 389.23 Application for waiver or modification of fees.

(a) Applications may be filed asking for waiver or modification of any fee paid under this subpart. Each applicant shall set forth the reasons why a waiver or modification should be granted, and by what legal authority.

(b) Applications asking for a waiver or modification of fees shall be sent to the Managing Director of the Board, and shall accompany the document filed. Applicants may appeal the decision of the Managing Director to the Board under § 385.50 of this chapter. When no petition for review is filed with the Board, or when the Board reviews the Managing Director's decision, if the amount found due is not paid within 10 days after receipt of notification of the final determination, the document shall be returned to the filing party.

(Approved by the Office of Management and Budget under control number 3024-0071)

[48 FR 642, Jan. 6, 1983, as amended by OR-215, 49 FR 6884, Feb. 24, 1984]

§ 389.24 Foreign air carriers.

A foreign air carrier, or such carriers, if from the same country, acting jointly, may apply for a waiver of the requirements of this part based on reciprocity for U.S. air carriers contained in the requirement of their home governments, or as provided in a treaty or agreement with the United States. To apply for a waiver under this section, foreign air carriers shall send waiver requests to the Director, Bureau of International Aviation. The request should include applicable official government rules, decisions, statements of policy, or comparable evidence concerning filing fees for U.S. air carriers, or for all carriers serving that country. Once a waiver has been granted for a

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specific country, no further waiver applications need be filed for that country.

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[OR-209, 48 FR 10628, Mar. 14, 1983, as amended by OR-215, 49 FR 6884, Feb. 24, 1984]

§ 389.25 Schedule of processing fees.

(a) *Document-filing fees.*

Code	Document	
	Interstate and Overseas Air Transportation Certificate of Public Convenience and Necessity:	
	Application under sec. 401:	
1	Charter	850
2	Scheduled Service	850
3	Dormant Authority	290
4	All-Cargo under sec. 418	670
5	Transfer	290
6	Air Taxi Registration	8
7	Commuter Air Carrier Authorization	670
8	Change of Name (registration of trade name or reissuance of certificate)	56
9	Exemption Request (General):	
10	Section 403	53
11	Section 401 (domestic)	280
12	Section 419	120
13	Service Mail Rate Petition	420
	FOREIGN AIR TRANSPORTATION (U.S. AND AIR CARRIERS)	
	Certificate of Public Convenience and Necessity (sec. 401):	
14	Scheduled Service	900
15	Amendment to application	425
16	Charter Service	600
17	Amendment to application	200
18	Transfer	255
19	Change of Name (registration of trade name or reissuance of certificate)	56
	Foreign Air Carrier Permit (sec. 402):	
20	Initial	760
21	Amendment/Renewal of permit	475
22	Amendment to application for a permit	215
	Exemption:	
23	Section 403	53
	Section 401/402:	
24	10 or fewer flights	77
25	More than 10 flights	360
26	Filed less than 10 days before effective date requested	117
27	Other (U.S. and foreign air carriers)	360
28	Emergency cabotage (sec. 416(b)(7))	360
29	Relief for U.S. (sec. 101) and foreign (sec. 416) indirect air carriers	370
	Undocketed Items:	
30	Canadian Charter Air Taxi Registration	30
31	Foreign Freight Forwarder Registration	11
32	Foreign Tour Operator Registration	10
33	Foreign Aircraft Permit (part 375)	25
34	Special Authorization (part 375)	12
35	Charter Statement of Authorization	8
36	Intermodal Statement of Authorization	10
37	Special Authority (part 216)	37
38	Items 33-37 if filed less than time required before effective date	111
39	IATA resolutions	61
	OTHER (U.S. AND FOREIGN AIR CARRIERS)	
	Charters:	
40	Public Charter Prospectus	39
41	OMPC Operation Authorization	665

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Code	Document	
42	Waiver of Charter Regulations	39
	Tariffs:	
43	Pages	2
44	Special Tariff Permission	12
45	Waiver of Tariff Regulations	12
46	Approval of Interlocking Relationships	415
47	Merger or Acquisition of Control	1080
47a	Exemption request	371
	Agreements filed under section 412:	
48	Prior Approval (docketed)	1080
49	Routine (nondocketed)	64
50	Application for free and reduced-rate transportation	16

¹ Additional.

(b) *Electronic Tariff Filing Fees.* The filing fee for one (1) or more transactions proposed in any existing record, or for any new or canceled records, shall be 5 cents per record; *Provided:* That no fee shall be assessed for those records submitted to the Department pursuant to §221.500(b)(1) of this subpart.

[48 FR 643, Jan. 6, 1983, as amended by OR-206, 48 FR 1941, Jan. 17, 1983; OR-210, 48 FR 15615, Apr. 12, 1983; 53 FR 17924, May 19, 1988; Amdt. 389-37, 54 FR 2099, Jan. 19, 1989; 70 FR 25773, May 16, 2005]

§ 389.26 Special rules for tariff page filings.

(a) *Tariffs issued by carriers.* The filing fee for tariff pages filed by U.S. air carriers will be charged even if the tariff includes matters involving participating foreign air carriers. It will also be charged if the tariff is issued by a foreign air carrier and includes matters involving participating U.S. air carriers, unless the foreign air carrier has obtained a waiver under §389.24. The fee will not be charged for a blank looseleaf page unless it cancels matter in the preceding issue of the page.

(b) *Tariffs issued by publishing agents.*
 (1) If the tariff is issued for one or more air carriers exclusively, the fee will be charged for each page.

(2) If the tariff is issued for one or more air carriers and one or more foreign air carriers, the fee will be charged for each page, except for those pages that the issuing agent states contain only:

(i) Matters pertaining exclusively to foreign air carriers that have been granted a waiver, or

(ii) Changes in matters pertaining to foreign air carriers that have been granted a waiver and that are included

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on the same page with other matters that are reissued without change.

(3) The fee will not be charged for a blank looseleaf page unless it cancels matters in the preceding page.

(4) No fee will be charged when two pages are published back-to-back, one page is not subject to the fee under paragraph (b)(2), and the page on the reverse is issued without substantive change.

(5) The fee will be charged for two looseleaf pages containing a correction number check sheet unless all other pages of the tariff are exempt from the fee.

[48 FR 643, Jan. 6, 1983]

§ 389.27 Refund of fee.

(a) Any fee charged under this part may be refunded in full or in part upon request if the document for which it is charged is withdrawn before final action is taken. Such requests shall be filed in accordance with §389.23.

(b) Any person may file an application for refund of a fee paid since April 28, 1977, on the grounds that such fee exceeded the Board's cost in providing the service. The application shall be filed with the Board's Comptroller and shall contain: the amount paid, the date paid, and the category of service.

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[48 FR 643, Jan. 6, 1983, as amended by OR-215, 49 FR 6884, Feb. 24, 1984; 49 FR 32564, Aug. 15, 1984]